

**JIMMY L. JAMES**

VS.

Respondent

AND

**CALIFORNIA COMPENSATION INSURANCE CO.**

Insurance Carrier

## ORDER

## ISSUES

(1) Claimant's injury did not arise out of and in the course of his employment;

(2) Claimant did not provide timely notice as required by K.S.A. 44-520.

After reviewing the record and considering the arguments, the Appeals Board concludes that the Order by the Administrative Law Judge should be reversed. The

Appeals Board finds that claimant has not proved by a preponderance of the credible evidence that his injury arose out of and in the course of his employment.

Claimant alleges and testifies that he was injured on January 16, 1997, when struck by a box being moved by a crane. He alleges he has headaches as well as neck and shoulder pain resulting from those injuries. Claimant first sought medical treatment on January 21, 1997, five days after the alleged injury. He advised the physician that he was seeking treatment for headaches he had been having for two to three weeks. He also gave history of migraine headaches and sinus problems. Claimant identified witnesses but both denied any knowledge of the accident. Both also testified that claimant had complained of headaches since shortly after he started working for respondent. One witness testified that after the date of the alleged injury, claimant came to work with a pack of ice and said that it was for his sinus headaches. On balance, the Board finds that the evidence does not establish by a preponderance of the credible evidence that claimant sustained an injury arising out of and in the course of his employment.

**WHEREFORE**, the Appeals Board finds that the Order by Administrative Law Judge Nelsonna Potts Barnes, dated March 17, 1997, should be, and the same is hereby, reversed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1997.

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BOARD MEMBER

c: David H. Farris, Wichita, KS  
Ronald J. Laskowski, Topeka, KS  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Director